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**Commonwealth of Massachusetts  
Division of Professional Licensure  
Office of Public Safety and Inspections  
Architectural Access Board**

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BUSINESS REGULATION

**CHARLES BORSTEL**  
COMMISSIONER, DIVISION OF  
PROFESSIONAL LICENSURE

**THOMAS HOPKINS**  
EXECUTIVE DIRECTOR

**Board Meeting Minutes – November 13, 2017 9:00 a.m.**  
**One Ashburton Place, 21<sup>st</sup> Floor, Conference Room 3**

Present Board Members:

- Walter White, Chairperson (WW)
- Evan Bjorklund, Massachusetts Office on Disability Designee (EB)
- Patricia Mendez, Member (PM)
- Dawn Guarriello (DG)
- George Delegas (GD)
- Jane Hardin (JH)
- Harold Rhodes (HR)
- Andrew Bedar (AB)

Also in Attendance:

- Thomas Hopkins, Executive Director (TH)
- Karen Brann, Program Coordinator/Clerk for the Board (KB)
- Kevin Scanlon, General Counsel, Division of Professional Licensure (KS)

Board Members not in attendance: Ray Glazier

- Meeting began approximately 9:00 a.m.

WW – AB, HR, DG, PM, JH, EB

Incoming Case Review:

1) The Universal Church, 425-427 South Main Street, Fall River (V17-283)

Exhibit – Variance Application and associated documents

Mr. Hopkins presented the Variance Application and associated documents.

5 story former furniture store converted to church on the first floor. Project is to provide access on 1<sup>st</sup> floor and sprinklers. Floors will be vacant except for church service. Work will be over 30%. But not giving us the spending. Asking for relief from all of 3.3.2, 28.1.

*DG motioned to continue. JH seconded, passed unanimously.*

2) Residential Units, 159-201 Washington Street, Boston (V17-284)

Exhibit – Variance Application and associated documents

Mr. Hopkins presented the Variance Application and associated documents.

Consists of 4 new and 2 existing buildings including a church and monastery. Providing 650 + - residential units. The single house and shrine will remain. Spending is over 30%. Spending \$10 mill on outside site work.

The petitioner is seeking relief from 20.2 route locations, 20.9 slope and 3.2 jurisdiction. Route for public consists of long stairs. 315 feet currently. Don't want to add a ramp because to create it the ramp would be 500 feet. The Board received a letter from the Boston Mayor's Commission on Disability in support of the project with the conditions of signage to find accessible routes, information on website, leasing material and welcoming packets.

*DG motioned to grant on the condition that all of the area that is shown in purple on site plan is already built and that the petitioner incorporates the Commission's requirements.*

*EB seconded, PM abstained. Motion passed*

GD arrived

3) Encore Dance Academy, 1349 Main Street, Reading (V17-285)

Exhibit – Variance Application and associated documents

Mr. Hopkins presented the Variance Application and associated documents.

The project is a reconstruction and remodeling of a dance school. The petitioner added a floor surface that created a need for a wedge at the door. This is what they are seeking relief for. Not sure if they need it. Spending \$28,000. Work performed jurisdiction.

They put the wedge in permanently.

*HR moved to grant the variance request as needed. EB seconded, passed unanimously.*

4) New Restaurant/Brewpub, 51 Sleeper Street, Boston (V17-287)

Exhibit – Variance Application and associated documents

Mr. Hopkins presented the Variance Application and associated documents.

The project is a reconstruction and remodeling of the interior of a restaurant. There are changes in level in two locations. Stair systems are adjacent to a long bar. The petitioner is seeking relief from at least one of the stairs. Patrons would need to exit the restaurant, go up the lift and reenter. The spending is over 30%. Require to provide vertical access. Signage would be appropriate if granted. Did they provide a plan on how a lift could be installed?

*JH motioned to grant provided that there is clear signage for the accessible route in lobby and also on website. Also, the building management needs to keep the doors open and the lights on, patrons need to be aware of the availability of the lift and staff needs to be trained on how to use lift. AB seconded HR opposed. Motioned passed.*

HR should ask them to come back with information on how to put a lift in.

5) Bishop Fenwick High School, 9 Margin Street, Peabody (V17-288)

Exhibit – Variance Application and associated documents

Mr. Hopkins presented the Variance Application and associated documents.

Existing High School renovations. Spending on the project is over 30% triggering full

Administrative Discussion and Incoming Case Review occurs throughout the course of the day.

compliance. The petitioner is seeking 5 time relief variances. The building is 3 stories. During phase 1 the petitioner will installation an elevator, entrance, toilet rooms, and close in an overpass.

During phase 2, the petitioner will install accessible seating in the auditorium, access to stage, locker rooms door hardware upgraded, accessible toilets on each floor. The petitioner states that the project will be completed 12/31/2019. Phase 1 starts now. 70% in design development phase. The building was Built 1959.

Fund raising status. \$4,200,000 spending.

DG is part of their variance for unequal treads? No. pie shaped stairs, they didn't include in application. Might be good to get enlarged restroom plans. Don't show dimensions. Under 30.1 they say all toilet rooms will be made accessible or they will make an accessible toilet room on each floor. Auditorium work will be done during phase 2. Seating and distribution, slope, access to stage.

*DG motioned to continue and order the petitioner to meet with the Executive Director. JH seconded, passed unanimously.*

*WW left the room*

6) Boston Volvo Village, 61 North Beacon Street, Boston (V17-289)

Exhibit – Variance Application and associated documents

Mr. Hopkins presented the Variance Application and associated documents.

The project is a renovation and remodeling of a 5 story building. The Volvo dealership is on the first three floors. Spending is over 30%. The petitioner is seeking relief for Stairs A and B, inner handrail, proposing wall side handrail, adding perforated screens to inner stair handrail. Seeking relief from 27.4.2, 27.4.6.

*DG motioned to grant as proposed. PM seconded, passed unanimously.*

7) Offices and Print Shop, 179 Bear Hill Road, Waltham (V17-290)

Exhibit – Variance Application and associated documents

Mr. Hopkins presented the Variance Application and associated documents.

The project is reconstruction and remodeling on a two story mixed use building. Spending on the project is over 30%. The petitioner is seeking relief from installing an elevator and proposes a vertical wheelchair lift. Passenger elevator and LULA needs 4' pit, soil beneath building is unknown. Would be 20% of total project cost. Vertical lift if installed to provide access to the second level. Two stop elevator.

*WW came back to the room*

GD A bit high for two stop elevator. Not buying soil conditions.

HR concerned about the safety of wheelchair lifts.

TH could consider a LULA.

DG is suite 201 never accessible? TH no mention of it.

*DG motioned to continue and ask for a study on a LULA with cost estimate. And address the fact that suite 201 does not appear accessible. DG seconded, passed unanimously.*

Administrative Discussion and Incoming Case Review occurs throughout the course of the day.

8) Gensouen Tea House, 299 Harvard Street, Brookline (V17-291)

Exhibit – Variance Application and associated documents

Mr. Hopkins presented the Variance Application and associated documents.

The project is a renovation and reconstruction of an existing Panera, 1 story plus basement.

Spending is over 30% triggering full compliance. Tearoom seating sections, struggling on how to make them comply. Seeking relief from 521 CMR 17.5 for two different seating areas

Tatami bench with Horigotatsu style seating, sunken area for seating sunken into a large bench.

Access via two stairs and three risers. No special items served in this area. Would like to demonstrate teahouse experience. Accessible tables are available in the same area.

GD it is a tradition. Cannot use wheelchair on the straw mats.

Sunken area tea room – ceremony is on a raised platform. 1 stair two risers, crawl into the space, there is an area on one side of the room where doors can be open creating an area for a wheelchair.

EB left the room

DG can't close outer door. It swings open.

*DG motioned to grant on both seating sections, 521 CMR 17.5.*

*GD seconded, passed unanimously.*

EB came back

WW left the room

9) Residential and Retail, 287 Old Colony Avenue, Boston (V17-292)

Exhibit – Variance Application and associated documents

Mr. Hopkins presented the Variance Application and associated documents.

The project is a new 4 story residential and retail on triangular lot. Proposing 5 condos with retail and parking on the ground floor. AAB jurisdiction 3.2 new construction. Seeking relief from 20.9. Two ground floor units need to be accessible. Proposing vertical lift but the lift goes into only one unit. Tricky shaped building. Ground floor units are above the retail and parking. Need to provide vertical access. Request for vertical wheel chair to one unit and exemption from group 1 requirement were not put in to their request.

*HR motioned to continue for the Executive Director to meet with the petitioner. EB seconded.*

11) Brazilian Baptist Church, 35 South Street, Framingham (V17-293)

Exhibit – Variance Application and associated documents

Mr. Hopkins presented the Variance Application and associated documents.

The Board received an application without exhibits, plans, etc. The petitioner is seek 36 months to create accessible toilet rooms. Building is 100% complete. Bring back on the 27<sup>th</sup>.

~~*EB motioned to continue for Executive Director Hopkins to meet with Clinton Design Associates.*~~

~~*PM seconded, passes unanimously.*~~

This vote was rescinded. See later vote.

Administrative Discussion and Incoming Case Review occurs throughout the course of the day.

12) Old Library, 15 Hamilton Street, Worcester (V17-294)

Exhibit – Variance Application and associated documents

Mr. Hopkins presented the Variance Application and associated documents.

The application says that 3.3.2 is triggered but spending shows nothing. More variances are needed than requested. The petitioner is seeking a variance to use a lift but no internal access is provided to floors.

*RH motioned to continue for further information from the architect AB, seconded. Passed unanimously.*

13) Savage Field, 3 Vale Street, Clinton (V17-295)

Exhibit – Variance Application and associated documents

Mr. Hopkins presented the Variance Application and associated documents.

The petitioner is proposing to build a new press box. No spending or value given on the application. In concept phase. 3.2 new construction. Raise press box 4-6 feet above grade.

*AB motioned to deny. DG seconded. Passed unanimously.*

14) One Story Multi-Tenant, 183 – 199 Concord Street, Framingham (V17-256)

Exhibit – Variance Application and associated documents

Mr. Hopkins presented the Variance Application and associated documents.

Renovations by tenants 1-5 due to fire. The petitioner is seeking relief from 25.2 approach to all 9 units. Or 26.6.1 slopes at entries. The case was presented on 10/16/17. Did not give us the slopes at initial review. We granted on condition they provide us with the slopes and the entrances have automatic door openers. Spending on the project is over 30% triggering full compliance.

On October 19, 2017 the Board received the slope measurements from Mark Dempsey. On Nov. 7<sup>th</sup> we received the measurement for the slope on entry 2. The slopes are steep.

RH did they make a proposal on how to comply with approach? TH the building inspector caught this. The design is complete, demolition of fire is complete.

JH Framingham is now a city. This is commercial space that had a fire.

PM good idea to engage the city of Framingham.

*PM Motioned to engage city of Framingham regarding the Board concerns on the slope measurement. DG seconded. Passed unanimously*

15) Performing Arts Center, 51 Walden Street, Concord (V16-004)

On 11/8/17 the Board received a time extension request from the petitioner. We previously issued an extension to March 1, 2018 to do improvements. Now they are seeking an extension to September 1, 2018. Delay is for grant funding. Have letter of support.

*HR motioned to grant time extension to September 1, 2018. DM seconded. Passed unanimously.*

Administrative Discussion and Incoming Case Review occurs throughout the course of the day.

16) Maynard Theatre, 17-21 Summer Street, Maynard (V16-207)

Exhibit – Variance Application and associated documents

Mr. Hopkins presented the Variance Application and associated documents

The Board received progress pictures of accessible bathroom from Glen Davis, Architect.

Architect will keep on sending us pictures until bathroom is signed off by the town.

The board received 2 drawings by architect for stage access. The petitioner is seeking reconsideration of the Board's vote. The vote was to deny use of portable ramp. The petitioner has asked that the Board allow it due to cost estimates and pictures. They want to use a portable ramp.

Option 1 – ramp to walk way, \$28,000-34,000

Option 2 – installing a lift \$45,000 not including modifications to stage, will be a visual distraction and assistance to operate. Stage area is rarely used.

*JH motioned to continue to receive specific details of portable lift location and who will be in charge of operating the lift. HR seconded.*

*JH motioned to accept the status update and pictures. PM seconded.*

WW left the room

17) Greenfield Court House, Hope Street Greenfield V17-167

On 11/7/17 the Board received an amendment to 30.8.2, length of restroom toilet grab bar in 11 toilet rooms. Estimate cost is \$110,000 per bathroom.

HR helpful to see drawings of each toilet room. DG did they give backup to cost? Demo of tile, drywall, flush operators, plumbing, tile pant patchwork, final cleaning.

They have a 30 inch not 36 inches. Stall might not be big enough and not asking for the right variance.

*DG motioned to continue for 11 separate drawings and dimensions, and existing photos of flushometer condition to confirm what is there. HR seconded. Passed unanimously.*

18) Stonecroft Place, 431 Country Club Way, Kingston V17-168

This case has been presented three times. The project is new construction of a 2 story building.

AAB jurisdiction is 3.2. The petitioner is seeking relief from 28.1 permission to install vert lift instead of wheelchair lift. The Board voted to deny. The case was taken up again on 7/24 based on additional material. Now seeking vert wheelchair lift. 2<sup>nd</sup> floor will be 2 apartments and small commercial space and storage space. Board accepted plan as proposed. We sent them a decision in July. On Nov. 2, the Kingston Zoning Board contacted us because of the change in second floor. Now they are proposing a new layout and the petitioner has told the zoning board that there have been no conditions set by the AAB Board. TH contacted the architect. The plan we approved was for two apartments, now he wants all businesses.

Asking to approve change in plan. The lift is still accessible. Shaft is built. Access is still being provided.

HR Has concerns on wheelchair lifts.

Administrative Discussion and Incoming Case Review occurs throughout the course of the day.

*HR motion to continue for Executive Director Hopkins to have a conversation with the petitioner regarding cost to redo the lift in to an elevator and to have petitioner show that it would be an unreasonable cost. PM seconded, AB abstained*

Their request to the zoning board regarding the change. Do an elevator study.

~~RH motioned that the business wait to go to the zoning board until AAB decides on the previous motion.~~

RH withdrew motion.

### Hearings

11:00 am – 4 Level Office Building, 24 Thorndike Street, Cambridge (V17-174)

Exhibit #1 –Hearing Packet AAB 1 – 47

Exhibit #2 – Evaluation of elevator plans and report

WW,AB, DG, JH, EB, HR, PM, DG

All members were sworn in By the Chair

Catherine Redmond (CR)

Karen Anderson

Kris Kolligan (KK)

Bruce Embry (BE)

TH – The first floor tenant submitted the application. Vert wheel chair lift. Remaining issues is tenant spending over 30% triggering compliance for owner for common areas. Architect for first floor put together drawings in packet on trying to insert vert access. The architect is not here.

BE – The lease is a fairly standard commercial lease. Landlord does maintenance in common areas. Tenant does the maintenance in their occupied space. Tenants improvements and construction in the building. When we drafted lease, the tenant will provide plans. The section of lease that talks about plans says there was a set of plans submitted and approved. The notion was that tenant would begin build out. The tenant was instructed that the building because of age, was not presently accessible on all levels. Tenant was making effort to make space accessible by lift. The lease discussed because of tenants understanding that building not accessible that should there be additional cost making accessible costs should be paid by tenant. The tenant triggered cost. At no time did landlord or tenant envision elevator. Clear that if tenant were to submit plan of elevator, landlord would say cant approve and lease would not go forward. Had the tenant supplied elevator plan it would have been rejected. Lease says if tenant needs to alter plan the plans need to be submitted for approval.

CR – Picture of building, small, old built on fill, occupied by a few small businesses, long term tenants. Building owners have good relationship with tenants. Would not want to approve elevator plan didn't want to disrupt existing tenants, they have long leases, have been amicable. Those tenants would lose rentable space.

TH 3.3.3 tenant work.

WW- Have we considered the application has merit? TH yes and you voted to bring owners in.

Administrative Discussion and Incoming Case Review occurs throughout the course of the day.

TH – we appreciated that drawings that the tenant sent us. Are you requesting variance for vertical access?

CR - No we are speaking for the building owners. The architect is no longer in business. Alegro. Would like to walk through drawings.

KK – Pictures shows two elevators, one internal and one external. Owner of building have owned it a long time. We create relationships between us and tenants they have been long terms. This has not raised in 30 years. Construction will disrupt, resulting reconfiguration of spaces. Some will lose ability to operate businesses.

CR – We called in engineers to evaluate plans and report. Submit plan to the board as exhibit #2.

EXHIBIT #2 – Evaluation of elevator plans and report

CR - This is an old building with small businesses as tenants. Low foot traffic. Could one argue making building accessible, first floor is accessible, could provide a future benefit, yes it could. It is not going to be substantial vs the cost. The submission from architect AAB 17, construction manager for Woodrow Wilson did do elevator cost. Does not include loss of rentable space, just direct construction cost. Asking for an improvement greater than the value of the building and does not include external costs.

K K – Financial hardship, what benefit does it provide based on the cost, inconvenience and relocation. I have done an assessment. Some tenants will no longer be able to work in their space. Have it as a case by case basis.

WW- Clarify that tenant would be on the hook, does the question become is it unreasonable.

GD - What is the status of construction?

KK – It is complete. Either elevator scenario makes space unusable for them. Lift is being installed this month.

GD – When did you find out you were in trouble as an owner?

KK – When they submitted to inspectional services.

I was unaware of the 30%. We found out in June and had conversations with them. ISD gave them a building permit and told them about AAB. Reminded them don't want it because of impact on tenants. This is your financial burden per the lease.

CR - They will break their lease.

KK – We are asking for a variance. There were a lot of people looking to lease the space.

GD - It is a small building, that \$\$\$ renovation will trigger you every time. Not make accessible for financial reasons and tenants.

KK – The plan we approved didn't have an elevator.

Isd missed it. They moved before they should have.

KK – ISD to them to proceed at their own risk and told them they need to go in front of aab.

CR- They spent \$57,000 making space accessible.

TH – You consider all the costs and it is 30% of space not building. Spending of tenant triggered for owner in the common areas. The tenant has variance in place for use of lift.



KK – the surprise was that the building permit was issued. Shock to see ratio of 30% assessed made us aware that it should not have gone further down. Should have found a way to spend less money in this space.

GD -420,000 includes lift. Did tenant trigger before the lift. YES??

GD - We gave a variance for first floor. Have these guys applied for a variance. TH – No

KK – We had no knowledge to submit an application.

Common areas are responsible by owner.

WW - Do we have an application from the owner?

TH – No they need to submit an application for the common areas.

DG - Language cost becoming burden of the tenant, is it against the building code??

BE – We were envisioning does the lift need to be 10’ wide tall. The tenant would not have been interested in putting in an elevator because space would have been interrupted.

DG - Can you read the language again?

BE - They didn’t anticipate their cost would trigger common areas.

KK - The tenant make the plans after

TH – The elevator stuff came in second. This is why we subpoenaed the owners to come in today. Our code is clear about who is responsible for what. Can’t shove it off on a lease.

TH - The technical work has been done on the drawings. The owner can apply for variance.

JH – What other business are in building.

KK – Real estate appraiser, start up, law firm, landscape architect, underscore weather forecasting.

JH – If I were a client of law firm and they need client accessibility. Have they ever requested?

K K – No

CR - Board packet – application. They applied for a variance to make entire building accessible. I don’t understand why we are here now?

CR - AAB 37 #9. Putting in a five story elevator is impracticable.

EB –Think tenant has done legwork but variance should be done by landlord.

TH - For other cases we have asked to put accommodation policy in lease. Maybe the tradeoff is the board orders accommodation plans when leases are renewed.

EB - You have the argument here but have the requirement to submit a variance application.

HR – the clarity both to persons with disability that they know the upper floors are not accessible. People go to buildings thinking it is accessible. On websites should layout their accommodation plans.

WW – a couple things. We have an application from the tenant. How do we close it out? We want owner to make an application and use the material or take no action today and ask to submit an application. They won’t have to come back. Do we say no variance is required on the tenant’s part and then say owners should submit a new application?

CR – suggest that application be revised as the building owner? Amended as the building owner? The tenant is still responsible under lease.

HR - Add accessibility plan in the variance.

*HR motioned to request owners to amend the tenant’s variance application to include owner’s participation and accommodation plan for people with disabilities.*

*GD seconded. Passed unanimously.*

*JH motioned to amend the previous motion that we will have information by 12/6/2017. HR seconded, passed unanimously*

Board broke for lunch

Hearing

1:00 pm - Former Cape Style Restaurant, 360 Main Street, Reading (V17-232)

Exhibit #1 – Hearing Packet AAB 1 - 25

Mario Patalano, (MP) Pinelli and Patalano, Attorney for Applicant

WW, HR, EB, JH, AB, DG, GD, PM

All parties were sworn in by the Chair.

MP – I do not practice in this area of law. I spoke to Mr. Hopkins and he was a wealth of information. In 20 minutes he educated me in this area of law more than anyone else in any area of law.

Background of the property. The manager of the LLC is a friend before he was a client. He bought the property, I represented him. He wanted to do some renovations. He hired an architect. He took drawings to town of Reading and they stamped the drawings and he got a building permit. One of the units was ready for occupancy he was told he couldn't get a permit. We did some research. I told him we need to find out who to hire to help, architect, engineer, etc. Called Kessler McGuinnis. Three days later met at the property he said a lot of work needs to be done here. The contractors went to the property to do work. Everything on the list was done. Had these issues that needed to be dealt with. I filed the application. The issue is the access to the second floor. I have been dealing with this property for 1 ½ years. Occupied by a hair dresser first floor left and right. First floor right and second floor right real estate co. The building 1900 sq ft. the second floor has two separate units. The units are very small. Originally when building was bought, the town required a handicapped ramp. Owner met with building inspector. Found out there wasn't enough room for a ramp. Owner put lift in the back of the building. The building isn't big enough to put in an elevator. It would take up 85% of second floor. Owner wanted to maximize use of building. Wanted to make sure handicapped people have access to the building. The elevator would cost 20% of the value of the building. The lift cost \$13,000. The building is too small for an elevator. I am proposing maybe providing some restrictions where the type of business that goes on 2<sup>nd</sup> floor is they type of business that in order for someone who needs handicapped accessed to second floor, maybe restrict to business to a business that can use the first floor to see those clients. A business where the client that need to get to second floor, maybe a restriction to a business that can also see a client on the first floor. The real estate co...second and first floor right. People can be seen on first floor. Whatever the client would have received on the second floor as long as client can receive it on the first floor.

WW - we grant variances here. Sometimes the people who rent inaccessible space doesn't have public come in. Somewhere down the line other businesses might come in. Propose lease language that might clarify this.

TH – This is a hearing on 28.1. There needs to be a discussion on people passing through a tenant's space and making sure space is open.

Administrative Discussion and Incoming Case Review occurs throughout the course of the day.

TH – if they can provide a written agreement color coded, lease language. It is a cape style house.

GD - Now you have 1 tenant that has one side first and second.

MP – As of now have proposed real estate for first and second.

GD – The second floor is tiny.

MP – If I see someone who cannot get to second floor. Comparable space on the first floor to see client. Client has to be treated the same on the first floor as the second.

GD – are you worried about a different tenant in the future.

MP - It will not be an issue now.

Lift is completely enclosed. It is on the back and only gives entrance to first floor.

Eb – one condition will be similar business, and along with first floor left will agree to allow access.

HR – A variance would be agreed based all leases will include language pass through left office, not allow access to second floor, variance survives changes in any tenants.

MP – all of that would be yes unless the second floor would be a business that did not see clients from the public.

*HR motioned to granted on the subject to following all leases in building include language allowing pass through first floor left office, both first floor tenants must allow a pass through to the second floor, variance language survives other tenants, and the lease will be given by 12/6/2017. GD seconded, passed unanimously.*

18) Hapgood Library Building, 7 Fairbank Street, Harvard (V17-155)

Exhibit – Variance Application and associated documents

Mr. Hopkins presented the Variance Application and associated documents.

The case was previously in front of the Board on 10/30. The Board voted to packet the case.

Received an email from applicant. The petitioner was concerned not the Board was not viewing the case until today because they had a town meeting. They are proceeding on the drawings and hiring an architect.

Originally came to us 6/2017. The Board granted a time variance. While they were finalizing the project. They are over 30 % now and sent in an amendment. Toilet room and electric outlets.

PM I think they are asking for 12 variance.

TH – they have threshold problems and want to take advantage of the exception. 26.11 handles, they want to keep certain handles, 39.3.1 electrical and communication receptacles, hall call lanterns 28.4.1 68” above lobby floor require 72 inches”, 26.6.3 pull side clearance, 5 ¼ as opposed to 18”. AAB 49. Water closet at 17” needs 18”.

*1<sup>st</sup> -DG motioned on the first request that the 24.4.2 is not needed. PM seconded, passed unanimously.*

*2<sup>nd</sup> - DG motioned to grant. PM seconded, passed unanimously*

*3<sup>rd</sup> DG motioned to grant. AB seconded, passed unanimously*

4<sup>th</sup> Electrical and communication systems

*DG motioned to Grant. PM seconded, passed unanimously.*

Administrative Discussion and Incoming Case Review occurs throughout the course of the day.

5<sup>th</sup> – 28.4.1

*AB motioned to grant. JH seconded, passed unanimously.*

6<sup>th</sup> – Pull side clearance

*PM motioned to grant with the condition of an automatic door opener. JH seconded, passed unanimously.*

7<sup>th</sup> – Center line of water closet

*HR motioned to granted. DG seconded, passed unanimously.*

8<sup>th</sup> – Latch pull side

*PM motion to grant as proposed. HR seconded, passed unanimously.*

9<sup>th</sup> 27.4.2 handrail gripping surface

*HR motioned to grant on the Condition there is a wall side compliant handrail.*

*GD seconded, passed unanimously.*

10<sup>th</sup> – 27.4.4 size

*DG motioned to grant on the condition there is a wall side compliant handrail. JH seconded.*

11<sup>th</sup> – 27.4.7 clear space handrail and wall

*HR motioned to grant provided there is a wall side compliant handrail. JH*

12<sup>th</sup> nosings 27.3

*HR motion to continue on the condition they show the board a plan for infill. PM seconded, passed unanimously.*

13<sup>th</sup> 27.4.3 Handrails do not have extensions a compliant handrail will be installed.

*GD Motion to grant as proposed. PM seconded, passed unanimously.*

HR left the room

19) Affidavit 281 concord street Cambridge.

Suggest that the Affidavit specifically references the color coded plan.

*PM motioned to deny as proposed and require the condition that the color coded plan is referenced in the affidavit. JH seconded, passed unanimously.*

2:00 pm - Moderna Needham, 700 Greendale Avenue, Needham (V17-240)

Exhibit #1 – Hearing Packet AAB 1 - 106

Exhibit #2 Letter from Needham Commission on Disability supporting variances

Exhibit #3 – Path Trail Map

WW, GD, DG, PM, AB, JH, EB, HR

Don Haverro (DH)

Elizabeth Webb (EW)

Administrative Discussion and Incoming Case Review occurs throughout the course of the day.

Bernard (Trevor) Rubidoux (BR)  
Lars Unhjem (LU)

The parties were sworn in by the Board Chair.

TH - Loft units, small loft on top of group 1 maybe group 2 seeking relief from interior access to loft.

EW – Residential units on a sloping site. Located along 95 south on the highway.

*JH motioned on the first two variances to grant sink depth with the condition compliant sinks are kept in stock and will be installed upon request with no cost to the tenant. Also, tenant's lease language will state the fact that 521 CMR accessible sinks will be install upon request with no cost to the tenant. HR seconded, passed unanimously.*

TR – Spoke to Needham Commission on Disability. Entered Needham Commission letter dated October 30, 2017 as Exhibit #2.

The Commissions letter is in support of the sink depths, vertical lift to be installed in 90 days of request by tenant at no cost to the tenant and in favor of the variance for the Greendale trail.

3<sup>rd</sup> accessible route to dwelling unit 9.5.4

AAB 62-64 general floor plans of lofted units location. Our variance request is from the tenant to give an accessible lift in 90 days. We have gone through each lofted units to provided location of lift due to the sloping of the ceilings. To be installed at tenants request. AAB 52-60 show different lofted unit types.

AAB 38 – cost analysis of the installation of the lift. The cost to install is roughly 10% of each unit.

WW – How many units?

EW – 17 units

JH – AAB 38, total cost per unit?

DH – Rough cost of each unit is 267,405, lift is either 25,000 or 28,000. The cost is one component, the loft level of each unit is small percentage. The idea is to give a person the choice if they want a lift installed in their space.

AB - besides the electrical and framing for lift.

EW – 90 days is the time period

DH - Based on procurement of the lift.

DG - Are you planning on doing any units?

DH – Strictly a need based situation.

DG – Some are nicely placed.

DH - You have to take in place the roof placement, locations.

JH – How many units, how does it look?

EW – 5 stories, and lift on top of fifth story. There is an elevator 1 – 5. Only loft needs the lift.

JH – Number of total spots how many units.

EW – 17 units on floor in question, 82 in total and we have group 2 units. Additionally there is nothing in loft space like laundry.

TH - Square footage?

EW – 100 150 square feet.

First floor of loft units is accessible.

Administrative Discussion and Incoming Case Review occurs throughout the course of the day.

JH – what stage is it in? Are there people on site people can talk to?

EW not in sheetrock yet.

Lars – No one on site yet. Marketing will be 60 days prior to first occupancy.

JH – Is there accessibility info on website?

LU- No

JH – Should start think about that now.

LU - 136 total units, 17 loft units.

HR- A person who has a lift vs. one who doesn't, will they pay the same rent?

LU - Yes

*HR Motioned to grant the variance for lifts to be provided in loft units within 90 days, as requested by a renter. PM seconded, passed unanimously*

EW - There is a meandering path runs through woods and part of development. We will be rerouting path so it doesn't get interrupted by development.

They will connect new development to existing path. This is a sloping site, with grade change.

EW - There are grade changes on path. AAB 101.

13.3 feet – 143 feet.

TR - This is a sloping site. These numbers and calculations are calculated where connection is proposed. Possibility to extend an accessible ramp if that ramp were designed would have to extend further up. The site rises will be fighting against existing grade. Would not be able to provide a straight ramp. Space between property line and retaining wall would not allow to extend width size.

WW - What is the path made of?

EW - It is a foot worn path, dirt. Not in scope to pave it. We are able to maintain a firm path. The path will vary.

WW – 4 feet.

EW – 4 feet is doable.

WW – Will it be soil material that is on site.

EW - Yes. If material on site cannot make requirements we will bring in stable material.

DH - I don't know of any historical significance to keep it all natural. It is a rural path, undeveloped path. Drainage system

JH – If town requested it stays natural and not be interrupted, the town must have some responsibility in maintenance. It might not be able to be used all the time. It has to be clear in your promotion information that the path is not accessible.

Lars – We have an obligation to grant easement to town.

EW – It is a class two trail, AAB 97, class two low priority maintenance.

JH – It needs to be clear. Hard to grant variance on a path that is really not a part of the location.

LU – In the mist of permitting, they wanted to make sure granted the town an easement.

DH - In my mind the relief we are asking for accessibility we are construction on our site to lead to the path....

JH – There are accessible interior pathways.

Administrative Discussion and Incoming Case Review occurs throughout the course of the day.

DG - They are suggesting to put in a firm service, relief is it is maintained by the town. Once receive sign off from town, it is an easement for the town.

WW- Do the other properties have an easement.

HR – This might be considered an element.

WW - They don't own the property.

DG - Put up a sign that says not accessible proceed at your own risk.

W - They have an argument based on the topography.

*HR motioned to grant a variance to 20.2.1 for relief for a connection to the Greendale Trail  
JH seconded, passed unanimously.*

EB left the room

19) **Revisit** Brazilian Church, South Street, Framingham V17-293

The application was poorly put together. Karen Dempsey submitted an email today from the commission. The church spent a large amount of money at the entrance with a three stop lift. Bathrooms are not fully compliant. Commission voted unanimously to ask the Board to grant the request for 3 years to raise money

Rescind previous vote.

*DG motion to grant as proposed. JH seconded, passed unanimously.*

WW left the room

20) Fin Restaurant, 800 Main Street, Dennis (V17-134)

Exhibit – Variance Application and associated documents

Mr. Hopkins presented the Variance Application and associated documents.

No spending given. Petitioner stated first floor fully accessible but no drawings. Drawing of toilet room shows inaccessible. Change in use proposing to use second floor for additional restaurant space. Have been using second floor without permit from town. We continued and for meeting architect and owner. Have submitted 10/13 package talks about fact building is historical and sent in interior pictures and ramp that serves entrance. Handrails don't comply. Relief for vertical access to second floor and propose to construct unisex bathroom.

HR – Would it be appropriate to get drawings?

TH - They submitted some with this package. Main push is about elevator being impossible. Service and view are the same on both floor.

WW came back to the room

EB came back to the room

Ramps were poured concrete 1981. One ramp is close to code other might have been a delivery ramp. Building commissioner told them they have needed an accessible rest room for some time.

The case came in June, continued it on June 5<sup>th</sup>. Required scale drawings, and accessible entry. We didn't receive any.

*JH motion to continue until the Board receives the information previously requested and in the form requested. HR seconded. EB abstained.*

Hearing 3:00 p.m.

3:00 pm - Goethe Institute, 170 Beacon Street, Boston (V17-213)

Exhibit #1 – Hearing packet AAB 1-67

WW, JH, HR, AB, PM, DG, GD, EB

Vernon Woodworth  
Ankek Rogginbuck

All parties were sworn in by the Board Chair.

VW – The building is a historical structure. There are cultural events on the main floor and class rooms above. It was built as a single family residence. Accessible parking at the rear. There is an accessible entrance with intercom. Some issues with the entrance. We requested a variance for entrance at rear. They have agreed to signage to direct people to accessible parking and on website will describe accessible features. Will be adding accessible parking to meet all requirements.

Handrails at historic stair, it is a three story oval stair, only one hand rail and oval shape requires winders. We have irregular treads and risers

WW - We are seeking relief on the public entrance. To not make front entrance accessible. The back entrance is going to be accessible.

DG-The elevator is in the middle of foot print.

EB - What is your argument to not make the door accessible?

VW - Would have to make a lift or a ramp. It is a historic building Back Bay Architectural would have a hard time with a lift.

HR – AAB 21, is this the rear entrance?

AR – Yes

Is it concrete leading to the door?

VW - This will be reworked.

HR – Is there enough lighting?

AR – We have lighting.

*GD motion to grant on the condition there is signage at the main entrance saying the accessible entrance is at the back of the building and efficient lighting at parking. The path for the elevator is accessible, and entry level of the building, and add to the website that accessible entrance is around back. PM seconded, passed unanimously.*

AR AAB 34 – Accessible parking will be in front of accessible entrance

*DG motioned that no relief is required for section 521 CMR 23.  
PM seconded, passed unanimously.*

Administrative Discussion and Incoming Case Review occurs throughout the course of the day.  
Meeting Minutes November 13, 2017      Page 16 of 20



26.5 Public doors in the basement – VW they would like to maintain historic. They have auto door opener for main door in the front. All doors will be open until class concert begins. Restrooms will be new.

HR AAB 28 – picture of the door. This door will be left open. Yes

*DG motioned to grant condition doors are left open until class or performance starts then employee will close them and then open them at the end. GD seconded, passed unanimously.*

27.4

AAB 33VW – No interruption at landing and an extension at base.

WW- Do you know dimensions width.

AR – 2.75 high, 2 wide.

*AB motioned to grant on 521 CMR 27.4. JH seconded, passed unanimous*

Elevator / existing car sides

VW - Report from consultant. Report is accurate.

Compliance cab would require reframing and relocation.

HR – inside dimension of elevator shaft?

AR – 33 ½ x 49

HR – Has a cost estimate been done?

AR - Do not have a cost estimate would have to be an addition to building.

Th – If there is a way door way can be adjusted otherwise elevator doesn't serve people in wheelchair. If you can go to 34 instead of 32 more room.

TH -Blue door on elevator.

Vw –The cab is not going to be replaced.

Collapsible gate might work.

Th – The panel

Variance from elevator board AAB could support that variance.

Accordion doors.

TH - 28.7 exception. Can't tell from photos how tight it is.

*HR motion to continue for more information on configuration, dimension on the elevator to make it more accessible to people in wheelchairs. EB seconded, passed unanimously.*

PM page 59 older document. Do you have any comments on that plan?

TH – Only for exterior lift on entrance.

GD – Can you explore replacing cab with a larger one?

AR – We have studied shaft interior. Limited size of the cab.

WW – That seems to be something they offered but not enforceable at this point. Do they want to entertain it in the future?

VW – We do not require a variance

*DG seconded that no variance is required for 521 CMR 29.2. JH seconded, passed unanimously.*

Administrative Discussion and Incoming Case Review occurs throughout the course of the day.

19) Winter Market, City Hall Plaza, Boston

Exhibit – Variance Application and associated documents

Mr. Hopkins presented the Variance Application and associated documents.

They set up last year and didn't request and variances. The chalets have 8 inch step.

We were contacted this year by Kristen McCosh. Mayor's Commission.

They need variances. Met with woman who contracts with Delaware North. Each chalet is \$5,000 -6,000 for 6 weeks. There was and ADA grievance filed last year.

The application was submitted on Friday. The petitioner sent a letter waiving the two week waiting period. They want to open the day after Thanksgiving. Support letter from Commission letting them go forward with the caveat that this is well established 6 months in advanced. They are redesigning some chalets and may remove some of the steps to make them flush with the street. We need to approve as proposed with moving portable ramps for this year. We have a stamped set of plans.

DG – Can they build a temporary 4 or 8 inch walk?

TH - Could build a boardwalk.

*JH motioned to grant as proposed today to enable this event to go forward, with the condition that for future approval the petitioner must come before AAB a minimum of 6 months before the 2018 winter event. DG seconded, PM abstained, HR opposed.*

WW - We need to communicate with Boston city management so this issue doesn't come up again.

TH – We could ask property management to come before the Board

*DG motioned for the Executive Director Hopkins to reach out to Boston City Hall to speak about accessibility for future events.*

Gore Place, 52 Gore Street, Waltham (V17-175)

Exhibit – Variance Application and associated documents

Mr. Hopkins presented the Variance Application and associated documents.

*DG motioned to continue to the next meeting. JH seconded, passed unanimously.*

Union Station, 55 Frank B. Murray Street, Springfield (V15-224)

Exhibit – Variance Application and associated documents

Mr. Hopkins presented the Variance Application and associated documents.

*DG motioned to continue to the next meeting. JH seconded, passed unanimously.*

14 Tyler Street, Somerville (V15-282)

Exhibit – Variance Application and associated documents

Mr. Hopkins presented the Variance Application and associated documents.

*DG motioned to continue to the next meeting. JH seconded, passed unanimously.*

Administrative Discussion and Incoming Case Review occurs throughout the course of the day.

21) Fitch Hoose House, 6 Gulf Road, Dalton (V17-262)

Exhibit – Variance Application and associated documents

Mr. Hopkins presented the Variance Application and associated documents.

*DG motioned to continue to the next meeting. JH seconded, passed unanimously.*

#### Advisory Opinions

Lift with Ramp

Code Red, Caitlin Gamache

*DG motioned to continue to the next meeting. JH seconded, passed unanimously.*

Minutes from the October 30, 2017 meeting

*JH motioned to approve the minutes from the October 30, 2017 meeting with the changes of adding Jane Hardin's name under Board Members Present, and on Evan Bjorklund's name change the initials to EB. HR seconded, passed unanimously.*

Matters not reasonably anticipated 48 hours in advance of meeting.

#### Adjourn

#### Exhibits

The Universal Church, 425-427 South Main Street, Fall River (V17-283)

Exhibit – Variance Application and associated documents

Residential Units, 159-201 Washington Street, Boston (V17-284)

Exhibit – Variance Application and associated documents

Encore Dance Academy, 1349 Main Street, Reading (V17-285)

Exhibit – Variance Application and associated documents

New Restaurant/Brewpub, 51 Sleeper Street, Boston (V17-287)

Exhibit – Variance Application and associated documents

Bishop Fenwick High School, 9 Margin Street, Peabody (V17-288)

Exhibit – Variance Application and associated documents

Boston Volvo Village, 61 North Beacon Street, Boston (V17-289)

Exhibit – Variance Application and associated documents

Offices and Print Shop, 179 Bear Hill Road, Waltham (V17-290)

Exhibit – Variance Application and associated documents

Administrative Discussion and Incoming Case Review occurs throughout the course of the day.

Genouen Tea House, 299 Harvard Street, Brookline (V17-291)  
Exhibit – Variance Application and associated documents

Residential and Retail, 287 Old Colony Avenue, Boston (V17-292)  
Exhibit – Variance Application and associated documents

Brazilian Baptist Church, 35 South Street, Framingham (V17-293)  
Exhibit – Variance Application and associated documents

Old Library, 15 Hamilton Street, Framingham (V17-294)  
Exhibit – Variance Application and associated documents

Savage Field, 3 Vale Street, Clinton (V17-295)  
Exhibit – Variance Application and associated documents

Union Station, 55 Frank B. Murray Street, Boston (V15-224)  
Exhibit – Variance Application and associated documents

14 Tyler Street, Somerville (V15-282)  
Exhibit – Variance Application and associated documents

Fin Restaurant, 800 Main Street, Dennis (V17-134)  
Exhibit – Variance Application and associated documents

Hapgood Library Building, 7 Fairbank Street, Harvard (V17-155)  
Exhibit – Variance Application and associated documents

Winter Market, City Hall Plaza, Boston  
Exhibit – Variance Application and associated documents

4 Level Office Building, 24 Thorndike Street, Cambridge (V17-174)  
Exhibit #1 –Hearing Packet AAB 1 – 47  
Exhibit #2 – Evaluation of elevator plans and report

Former Cape Style Restaurant, 360 Main Street, Reading (V17-232)  
Exhibit #1 – Hearing Packet AAB 1 - 25

Moderna Needham, 700 Greendale Avenue, Needham (V17-240)  
Exhibit #1 – Hearing Packet AAB 1 - 106  
Exhibit #2 Letter from Needham Commission on Disability supporting variances  
Exhibit #3 – Path Trail Map

Goethe Institute, 170 Beacon Street, Boston (V17-213)  
Exhibit #1 – Hearing packet AAB 1-67